



*Metro***Public Health***Dept*

N a s h v i l l e / D a v i d s o n C o u n t y

Protecting, Improving, and Sustaining Health

Civil Service Rules

Effective July 1, 2016

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of Metropolitan Nashville and Davidson County
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CHAPTER ONE

INTRODUCTION TO CIVIL SERVICE RULES

1.1 OBJECTIVES OF RULES

The purpose of these rules is to bring into the service of the Metro Public Health Department ("Department") a high degree of understanding, cooperation, efficiency, and unity. These rules provide a uniform human resource program for employees. The fundamental objectives to be achieved by these rules are:

- A.** To promote and increase efficiency, fairness, and transparency in the Department.
- B.** To provide equal employment opportunities to all applicants and employees.
- C.** To develop a program of recruitment, advancement and retention, which will make employment with the Department attractive as a career and encourage each employee to render his/her best services.
- D.** To establish a consistent and equitable program based on merit for the hiring and promotion of employees.
- E.** To set clear expectations for employment, reflective of the trust and reliance placed on public servants.

1.2 NON-CIVIL SERVICE POSITIONS

Vacant Non-Civil Service positions must be clearly identified as "Non-Civil Service." The chosen applicant must meet the minimum requirements of the applicable job description or approval must be obtained from the Board of Health, and the applicant must be informed of his/her Non-Civil Service status upon hiring. Standards for Non-Civil Service employees are set by the Board of Health and [are contained in Policy 1.2].

The following positions are designated as Non-Civil Service:

A. Positions classified as Seasonal, Part-time, or Temporary:

These positions are filled for short-term peak workloads, for special projects, for temporary needs (e.g. leaving the position vacant would have an adverse effect on government efficiency), or for positions whose regular assigned work schedule averages less than twenty (20) hours per work week on a regular basis.

This classification also includes positions in a ready reserve "pool" of qualified persons such as retired or former employees, PRN School nurses, etc., to supplement the regular work force. Pool employees report to work when needed because of periods of peak workload, employee absences, emergencies, or other short-term situations where

the hiring of regular salaried employees or the use of overtime or a temporary agency is not effective or cost efficient.

B. Contractual Positions: These individuals are hired through written agreements for limited durations. The extension or renewal of an employment contract does not create an expectation of continued employment.

C. Grant Funded Positions: This status shall be used for employees hired after January 1, 2016 into positions funded by new grant programs. These employees shall be entitled to vacation, sick leave, and other benefits as authorized and funded by their individual grants. Employees who were hired into a Civil Service position shall not be affected by this subsection.

1.3 COMMUNICATION OF RULES

An electronic or hard copy of these rules will be given to all Department employees and to all new hires. Each employee is to sign a statement that he/she has received the copy. An up-to-date copy of the rules will be maintained in the department. This copy will be available on the Intranet at all times. A hard copy will also be maintained for reference by employees during normal working hours. Any changes to the rules will be posted on the Intranet. Rule changes will be distributed to all Department employees electronically.

1.4 AMENDING OR CHANGING RULES

The Human Resources Manager is responsible for recommending changes of these rules to the Board. Anyone may recommend changes to the Human Resources Manager. In accordance with the provisions of the Metropolitan Charter, it shall be the authority of the Board to review and, as necessary, amend or modify these rules, after a public hearing.

These rules will be reviewed by the Human Resources Division at least every five (5) years. However, the Rules may be revised at any time by the Board, after a public hearing.

1.5 ADOPTION OF EXECUTIVE AND ADMINISTRATIVE ORDERS

All Executive Orders of the Mayor of the Metropolitan Government of Nashville and Davidson County will apply to all employees of the Department, regardless of Civil Service status, to the same extent they apply generally to employees of the Metropolitan Government.

1.6 HUMAN RESOURCES POLICIES

Human Resources Policies are available on the Department's Intranet. Employees can obtain a hard copy of policies or procedures by printing them or by requesting a copy from the Human Resources Division.

The Department will adopt and revise its Policies, and except as specifically required in these Rules, those Policies will not require the approval of the Board.

1.7 EFFECTIVE DATE

The effective date of these rules shall be July 1, 2016. On this date all prior Civil Service Rules are superseded by these rules. However, no part of these rules shall be applied retroactively.

CHAPTER TWO

EMPLOYMENT PRACTICES

2.1 EQUAL EMPLOYMENT OPPORTUNITY

A. POLICY

It is the policy of the Board that all persons shall have equal employment opportunities regardless of race, color, national origin, gender, gender identity, sexual orientation, age, religion, creed, marital status, or disability. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other employment practices because of any of these factors shall be prohibited. Harassment based on any of these factors is a form of discrimination and will not be tolerated.

The Civil Service Rules and Human Resource operations shall be administered in such manner as to comply fully with all Equal Employment Opportunity laws and regulations. Any employee or applicant who feels that he/she has not been afforded equal opportunity for any employment action may file a complaint in accordance with these rules and the Department's complaint policies and procedures.

B. DISCRIMINATION COMPLAINT PROCEDURE

A complaint of discrimination as outlined in the Discrimination Guidelines, including a complaint of sexual harassment, may be filed according to the steps defined below. A complaint should initially be filed within twenty (20) work days of the occurrence or reasonable knowledge of the alleged discrimination. If it is a continuing problem, the complainant needs to state when it began and the progression to the time of the complaint. A complaint may be filed by a current employee or by an applicant, and by an individual or a group of people. Any complainant shall have the right to have reasonable representation of his/her choosing with him/her at all stages of the complaint procedure. The complaint procedure will maintain confidentiality, to the degree allowed by law. Reprisal or retaliation against the complainant or witnesses participating in the investigation is prohibited and could be grounds for disciplinary action.

1. Although employees are encouraged to try to settle problems on an informal basis, any employee who feels that he/she has been subjected to discrimination may file a complaint with his/her supervisor. The supervisor shall try to remedy any actual or perceived problem without the necessity of additional formal procedures. The supervisor shall inform the employee of his/her decision within ten (10) work days. If the complaint is not resolved at this level, the employee may proceed to Step 2 as long as he/she does so within ten (10) work days of receiving the supervisor's decision. If the supervisor is the offending party, or if the employee feels that the supervisor will not or cannot objectively handle the complaint, the employee should file the initial complaint in accordance with Step 2.

2. (Step 2) A complaint of discrimination may be filed, in writing, with the Director or designee. (If the Director or designee is the alleged offending party, the individual should file the complaint with Human Resources as set out in Step 3.) The Director or designee, after thorough investigation, should take the necessary steps to correct any problem found to exist. Such correction may include disciplinary action against an offending employee, especially if the charge involves harassment. The departmental investigation shall be completed within twenty (20) work days, with an extension of an additional twenty (20) work days if needed. The Director shall notify the complaining party of his/her decision within ten (10) work days following the conclusion of the investigation. If the Director feels that the charges warrant a third party investigation, or if the charges involve rules or policies which are beyond his/her scope of authority, he/she may refer the complaint to Step 3.
3. (Step 3) If the individual feels that the complaint has not been remedied by the Director, the complainant should file a written complaint with Human Resources. The written complaint should be filed within ten (10) work days from the date of the letter sent by the Director as set out in Step 2. Upon receipt of a written complaint or referral by the Director, Human Resources will conduct an investigation within twenty (20) work days, with an extension of up to twenty (20) additional work days if needed. He/she will make a full report to the complainant and the Director, which shall include findings as to the truth of the allegations of discrimination. As a result of the investigation and the findings of Human Resources, the Director shall then review his/her previous decision to determine if the appropriate action was taken. Within ten (10) work days after receipt of the final report, the Director shall send a written notice to the complaining party of action being taken.
4. Right of Appeal - Any complaining party may present his/her complaint of discrimination to the Board, for review, after Step 3 has been completed, if the individual feels the Director has failed to adequately address the problem cited. Such complaint to the Board must be made in writing, within ten (10) work days of the final notice by the Director as set out in Step 3.
5. If, for some reason, the complaining party is not comfortable with this complaint procedure, it should be recognized that any individual has the right to proceed directly to the Equal Employment Opportunity Commission, the Tennessee Human Rights Commission, or the Metropolitan Human Relations Commission to file a complaint of discrimination.

2.2 PROBATIONARY AND WORK TEST PERIODS

A. PURPOSE OF PROBATIONARY PERIOD

Every employee appointed to a Civil Service position in the service of the Department must successfully complete a six (6) month probationary period of satisfactory performance before he/she is considered a Civil Service employee. The probationary period shall begin on the employee's first scheduled day of work. During the probationary period, the employee's performance shall be closely observed, documented, and communicated with the employee; and, in the process, a determination of the employee's suitability for the position shall be made. Only those employees whose performance during the probationary period meets an acceptable standard shall be retained and granted Civil Service status. Prior to the conclusion of the probationary period, a decision must be made and the employee notified. If, at the completion of the six (6) month probationary period, the employee has not been notified of either his/her failure to meet acceptable standards, or an extension of the probationary period granted in accordance with this section, the employee shall automatically attain Civil Service status in his/her position (except as otherwise provided by these rules).

B. EXTENSION OF PROBATIONARY PERIOD

An extension of the probationary period beyond six (6) months shall not normally be granted. However, upon the written request of the employee's supervisor which clearly specifies the reason(s), the Director or designee may grant, in unusual or unique situations, an extension of the probationary period for up to one (1) additional month. Any extension in excess of one (1) month shall require approval of the Board; but, in no event shall any probationary period be extended more than an additional six (6) months from the date originally established as the completion date.

C. TERMINATION OF PROBATIONARY EMPLOYEES

A probationary employee may be terminated at any time during the probationary period because of unsatisfactory job performance or physical or mental inability to perform the job which cannot be reasonably accommodated. This separation does not require advance notice and is not subject to appeal or hearing (unless the reason for termination adversely reflects upon the employee's honesty or moral character, in which case the employee will be granted a hearing before the Director). However, this does not eliminate the supervisor's responsibility to properly evaluate the employee's work performance, to provide the employee with reasonable directions on acceptable standards of work, and to properly document the reasons for recommending termination of a probationary employee. Terminations which are handled in accordance with this section cannot be appealed to the Board.

D. PURPOSE OF THE WORK TEST PERIOD

Any employee shall be required to successfully complete a work test period of satisfactory performance on the job before he/she is allowed to remain in the job classification following a:

- Promotion;
- Transfer to another classification, program, or division;
- Disability return to work after an inability to perform essential functions (to the same position or to a different position, class series, program, or division);
- Layoff recall to a different class series, program, or division; or
- A voluntary reduction in grade to a position with different responsibilities.

The work test period shall be for six (6) months and shall begin on the effective date of the appointment. During the work test period, the employee's performance shall be closely observed, documented, and communicated with the employee; and, in the process, a determination of the employee's suitability for the position shall be made. At the conclusion of the work test period, a decision must be made and the employee notified. If the employee is not notified of his/her failure to meet the acceptable standards, or notified of an extension of the work test period granted in accordance with this section, the employee shall automatically remain in the job classification.

E. EXTENSION OF WORK TEST PERIOD

An extension of the work test period beyond six (6) months shall not normally be granted. However, upon the written request of the employee's supervisor that clearly specifies the reasons; the Director may grant, in unusual or unique situations, an extension of up to one (1) additional month. Any extension in excess of one (1) month shall require approval of the Board, but in no event shall any work test period be extended more than an additional six (6) months from the date originally established as the completion date.

F. REDUCTION OF WORK TEST EMPLOYEES

An employee in a work test period may be reduced to his/her former classification or the first available comparable classification at any time during this period because of unsatisfactory job performance or physical or mental inability to perform the job which cannot be reasonably accommodated.

If an employee fails a work test period and a vacancy at the employee's previous or comparable classification and salary grade is not available, he/she will be subject to layoff, pursuant to the processes required by these rules regarding layoff. If an employee receives a transfer to a vacant position in order to avoid layoff, and then fails the work test for that position, he/she will be placed on a layoff list. For purposes of applying the rules and procedures regarding layoff, such employee will

be evaluated and layoff processes implemented based on the employee's most recent pre-work-test position (and applicable program or division) within the Department.

An employee who is returned from disability and subsequently fails the work test will be referred to the Employee Benefit Board.

Reduction due to a failed work test must be preceded by adequate counseling of the employee. The job-related reasons for such decision shall be documented by the supervisor and explained to the employee. Nothing in this section shall be meant to prevent a supervisor from taking corrective and/or disciplinary action during the work test period in accordance with these rules. An employee who is reduced back to their prior classification may request a review by the Human Resources Manager. If questions remain after this review, the employee may request a review by the Director or the Director's Designee. The request must be made in writing within ten (10) work days following the effective date of the reduction. There is no right of Appeal to the Board.

2.3. PERFORMANCE EVALUATION

A. POLICY

In accordance with the Metro Charter, each employee's job performance shall be evaluated on at least an annual basis. Additional evaluations may be done when necessary. The requirements of the position constitute the standards of performance and the basis upon which supervisors will rate the performance of employees. The standard of performance against which observed performance is compared shall be the performance that may be expected after a reasonable period of training of a fully qualified, competent, and acceptable employee.

B. PURPOSE

Performance evaluations are used to give employees feedback on their job performance, to help them improve future performance and to document performance for the following purposes:

- 1.** To complete probation or work test.
- 2.** To determine whether a salary increase will be granted and the amount of the increase if the employee is in a classification assigned to an open range pay grade.
- 3.** To determine eligibility for promotions and advancement.
- 4.** As an aid in determining layoff actions.
- 5.** To determine reemployment eligibility.
- 6.** To facilitate other personnel decisions which may be appropriately influenced by employee performance.

C. TYPES AND FREQUENCY OF EVALUATIONS

1. Probationary or Work Test Evaluation

Each employee serving a probationary or work test period shall have his/her performance evaluated by his/her immediate supervisor periodically during this time, which shall be the basis for determining his/her suitability for the position and for attaining Civil Service status for the probationary employee where applicable.

2. Annual Evaluation

Each employee will have his/her performance evaluated on at least an annual basis. This evaluation shall be completed even if there is no salary adjustment possible.

3. Interim Evaluations

Any supervisor may complete a performance evaluation on a subordinate employee whenever such is deemed useful or necessary.

D. EMPLOYEE APPEALS

1. Grounds for Appeal

An employee may appeal a performance evaluation based on the following grounds:

- a) The procedures for completing the evaluation have not been properly followed.
- b) Explanation was not included for below standard ratings or the explanation was factually inaccurate.
- c) The performance evaluation prevents the employee from receiving a pay increase (when applicable). In such a case, the employee should be prepared to substantiate the ratings he/she believes to be appropriate.

2. Appeal Procedure

An employee must appeal the performance evaluation within fifteen (15) work days of the date of the performance evaluation review. The request must be submitted in writing specifying the grounds for the appeal and substantiating the basis for the claim. An appeal filed on the above grounds begins with the rater. The employee should discuss his/her concerns with the rater and request adjustment to the appropriate evaluation ratings.

If the rater believes the initial ratings were correct and does not believe that a change is needed, the employee may request that the reviewer consider the desired changes.

If the reviewer upholds the original rating, the employee can appeal to the Director or designee, who has the final decision.

If changes are made at any time in the process, they shall be in writing and initialed by all parties involved, with a copy given to the

employee. All aspects of the appeal are handled within the department. There is no right of appeal to the Board.

3. Appeal Limitations

An employee may not appeal an evaluation simply because he/she disagrees with particular ratings, absent any of the grounds listed. Employees may indicate agreement or disagreement with ratings on the evaluation when it is discussed. If an employee feels that this is insufficient he/she may place a statement in the employee's personnel file. Rebuttals should be signed by the rater, reviewer, and Director or designee.

2.4 OUTSIDE EMPLOYMENT AND OUTSIDE BOARD OR OFFICER POSITION

An employee may engage in employment with another organization as long as he/she satisfactorily performs his/her job responsibilities with the Department. Outside employment is any work paid in addition to the Metro salary, including self-employment. Outside employment must be reported in advance, in writing (form available in Human Resources or on the Intranet), to the Human Resources Division and must be in accordance with the following guidelines:

- A.** It must not interfere with the employee's duties.
- B.** It shall not involve a conflict of interest or the appearance of or potential for a conflict of interest.
- C.** No employee shall use the facilities, equipment, personnel, or supplies of the Department or its agencies for other than officially approved activities, except to the extent that they are lawfully available to the general public.

The Director or designee shall approve or disapprove an employee's outside employment, in accordance with the guidelines above.

An employee eligible for Family and Medical Leave (FMLA) leave may engage in outside employment provided: A) the employee's health care provider approves the outside employment by certifying that the outside employment will not impede the employee's recovery from, or treatment for, a serious health condition; and B) he/she obtains written approval of the Director.

2.5 NEPOTISM

Within the Department, no employees who are relatives may hold positions within the same direct line of supervision whereby one relative is responsible for supervising the job performance or work activities of another relative. This in no way restricts the work assignment of employees during emergency situations which affect the health, safety or welfare of the public. A relative is defined as a member of the employee's immediate or extended family.

2.6 RESIGNATION

If a Civil Service employee takes the initiative to voluntarily terminate his/her employment by resignation, he/she is expected to give his/her supervisor a minimum of two (2) weeks' written notice and to work as scheduled for the duration of that notice period. Failure to meet these terms can result in being ineligible for rehire and will be a factor for consideration of future employment opportunities.

2.7 TERMINATION

Any employee of the Department may be terminated for unsatisfactory job performance, violation of Civil Service or departmental rules and regulations, physical or mental inability to perform assigned duties upon reasonable accommodation, or other cause covered in Section 6.5.

Civil Service employees who are terminated due to inability to perform assigned duties shall be given at least two (2) weeks' notice prior to such action being taken. Dismissal due to rules violation or other cause does not require the two (2) week notice; however, such action must be taken in accordance with the guidelines in Section 6.5. Pay in lieu of notice may be substituted on an equal basis in all cases where notice is required.

2.8 LAYOFF

It is the policy of the Department that care and discretion be exercised in the adding of employees to the payroll, and that every reasonable effort be made to avoid layoff actions. It is recognized, however, that budget reductions, program changes, service changes, funding changes, grant cessations, and/or reorganizations may periodically occur or become necessary and may result in layoff actions. Layoff actions include termination of employment, rollback in classification, or rollback in salary.

In determining layoffs, the continuous service date (seniority) with Metro Government will be one of several factors, including performance, qualifications, skills (such as bilinguality), and productivity, which will be used to determine who will be affected within a particular classification and/or class series. Prior to the effective date of the layoff, a reasonable attempt will be made to transfer employees to other vacant positions within the Department.

If an employee is offered and accepts or declines a position in the same classification in the Health Department or elsewhere in Metropolitan Government, accepts another position in the Health Department or elsewhere in the Metropolitan Government even at a lower grade, or is granted retirement or disability pension on or before the effective date of the layoff action, the employee relinquishes his/her recall rights.

The Layoff Policy (as revised by the Department and approved by the Board, from time to time) provides a detailed description of the layoff process.

2.9 REEMPLOYMENT

Former employees of the Department, who resigned in good standing and whose previous performance evaluations were satisfactory, shall be eligible for reemployment, provided they meet all of the requirements for employment.

- A.** Prior to reemployment of other candidates, consideration will be given to such former employees of the Department and other Metropolitan Departments who are receiving disability pensions, but who are physically fit and qualified to perform the duties required of the position available. Other than the consideration to be given disability pensioners, no special preference or rights shall accrue to such former employees in the selection process over any other qualified applicant. Any such former employee who is rehired shall be considered a new employee and shall be required to successfully complete a probationary period.
- B.** Former employees whose employment was terminated due to physical or psychological impairment who are later rehired shall be credited with unused leave if applicable, prior service time, and receive their previous salary, provided that up until the time of rehire, the employee has been receiving a disability pension from the Metropolitan Government.
- C.** Any former Metropolitan Government employee that is re-employed shall be credited with prior accumulated sick leave and service time upon completion of the probationary period. It shall be the responsibility of the employee to request written documentation regarding prior accumulated sick leave and service time from another Metropolitan Government department.

2.10 EMPLOYEE RECORDS

A personnel file shall be maintained by the Human Resources Division on each employee. Each employee's file shall contain the following items either in a hard copy or an electronic version:

- A.** Application for employment and other pre-employment data.
- B.** Record of initial hire and any subsequent transfers, promotions or other changes in position, classification, pay rate, or pay grade.
- C.** Record of performance evaluation and disciplinary action.
- D.** Such other documents as may be specified in these rules or pursuant to established practice and procedure.

This file shall be the official personnel file on individual employees maintained by the Department. Employees shall have the right to view his/her file in the Human Resources Division during regular business hours and upon reasonable notice being given. Employees will only be allowed to review his/her file in the presence of a Human Resources staff member. Employees shall not remove or add any information to the documents already in their file. Any certificates, letters of appreciation, or

other documents should be presented to a Human Resources employee for placement in the employee's file.

Any person, company, business or agency, excluding persons or agencies of the Metropolitan Government or lawful orders, seeking information in regard to an employee (except for oral and written requests for verification of employment dates, job title, income, and employment reference) shall submit a public records request. The written request for information in regard to an employee shall become part of the employee's file. Requests for information which do not conform to these guidelines will be denied. Employees will be notified when someone other than supervisory personnel will be reviewing their file. Requests for personnel file documents are subject to the limitations, fees, and procedures of law, Executive Orders, and the Department's policies on the Inspection and Copying of Public Records.

2.11 RESIDENCY

It shall be required and the responsibility of the employee to keep his/her current address and telephone number up-to-date using the Metro Human Resources Employee Self Service system (or other current system for recording employees' addresses and contact information).

CHAPTER THREE

SELECTION AND PROMOTIONAL PRACTICES

3.1 RECRUITMENT

The Department shall make every reasonable effort to attract qualified applicants for employment. Except as provided in Section 3.5(A), announcements shall be made in such a manner that qualified internal and external candidates shall have an opportunity to apply. Recruitment efforts may include, but are not limited to, advertisements, Internet postings, Intranet postings, social media announcements, announcements distributed to applicable schools, colleges, and training centers, and Department bulletin boards.

3.2 APPLICANT ASSESSMENT

The tools and techniques which shall be used to ascertain the fitness of each applicant shall be administered consistently for each vacant position. All qualified candidates for a given vacancy shall be assessed and reviewed using the same techniques or tools. These may include but shall not necessarily be limited to those listed below, and the Department may have more specific policies governing their use.

A. Written Examination

Job-related written or computerized tests may be administered. To protect the integrity and purpose of such tests, no applicant shall be permitted to take the same written examination more than once in any thirty (30) day period, or twice in any one hundred and eighty (180) calendar days.

B. Oral Examination

Oral examination may be used to obtain information regarding the job-related interests, experiences, skills, knowledge, and abilities. To protect the integrity and purpose of such examination, no applicant shall be permitted to take the same language assessment more than once in any one hundred and eighty (180) day period.

C. Performance Examination

Performance examination may consist of tests measuring typing and/or data entry speed and accuracy, manual dexterity, physical agility and coordination, or other job-related skills.

D. Personal Interview

Personal interviews may be conducted by an interviewer in the Human Resources Division, supervisory employee(s) to whom the position reports, and/or an interview panel comprised of Health Department employees. Interviews shall have the purpose of appraising and documenting applicant experience, knowledge, skills, abilities, and competencies, and other data relevant to their suitability for the position.

E. Reference Checks

Reference checks will be performed on applicants. These consist of oral and/or written verification of the applicant's credentials, character, background, previous work experience, and/or performance evaluations from current and former employers and other references.

F. Physical Examination

Physical examinations consist of a post-offer medical examination concerning the applicant's physical ability to perform the job with or without reasonable accommodation. It shall be conducted by a physician designated by the Director. The cost of such examination shall be borne by the Department.

G. Background checks

Background checks, which may include verification of the applicant's education, licensure if applicable, criminal history, and other appropriate investigations by an independent agency will be performed on applicants.

3.3 BASIS FOR SELECTION

The basis for the selection and appointment of any applicant for any position shall be the relative appropriateness of his/her job-related credentials in comparison to all other applicants for the same position. For each vacancy, the available applicant whose total credentials best meets the job qualifications and requirements shall be selected for employment.

A structured and scored interview with a panel will be used for all job classifications in the OR and HD series in the pay plan and for positions classified as ST08 and higher in the ST series of the pay plan. Interview panels may be used for positions classified as ST07 and lower should the hiring manager deem appropriate.

Structured interviews use the same job-related questions for each candidate, anchored rating scales, and a prepared interview panel. An interview panel is made up of three or five members.

The entrance (original appointment) and promotional selection system for all positions shall be based solely on merit principles for employment and promotion that select the most qualified person and are fair and equitable to all persons. In accordance with the Metro Charter, an employee or official of Metropolitan Government shall not give preferential treatment to any applicant or employee, or otherwise attempt to influence the selection decision based on non-job related reasons.

The Hiring Manager shall notify each Department employee who was interviewed that the selection process has been completed, and the name of the individual selected. This notice must be sent within ten (10) work days of the appointment.

Prior to the extension of an offer of employment to the selected candidate, the Office of Human Resources will verify:

- A.** The selected candidate possesses the minimum qualifications for the position.
- B.** The questions asked in the interview process were appropriate to the competencies contained in the job description.
- C.** The same questions were asked of all interviewees.

3.4 VETERAN'S CONSIDERATION

Each qualified applicant for employment who has been honorably discharged from the Armed Forces of the United States shall receive extra consideration for employment over other similarly qualified applicants who do not qualify as veterans. A copy of the DD214 form must be submitted verifying the period of service and type of discharge.

3.5 PROMOTIONAL POLICY

It is the policy of Department to provide promotional opportunities whenever possible to qualified employees. Employees are encouraged to take advantage of these opportunities by continuing to strengthen their job-related qualifications and abilities through formal education, training, self-study, and by establishing a record of reliability and quality job performance. Employees shall be assured of full and fair consideration through the promotional selection process contained in these rules, policies, and procedures.

Each eligible current employee of the Department who applies for a posted vacancy shall be personally contacted by the hiring supervisor and his/her application shall receive full consideration for the position. This provision does not require interviews to be offered to all such current employees.

A. ANNOUNCEMENT

Budgeted vacancies which would provide promotional opportunities shall be announced and advertised in such a manner that all eligible and qualified employees within the department shall have an opportunity to apply.

Applications shall be accepted during the period specified on the announcement, which shall include at least 5 work days. The posted position's supervisor may receive and review applications after the period's end, but is not required to do so. Additionally, announcement periods may be extended as necessary to obtain additional applicants. Applications may also be accepted on a continuous, quarterly, or semi-annual basis.

However, budgeted vacancies may be filled without announcement by either the transfer of an employee or the recall of a laid-off employee.

B. ELIGIBILITY

Eligibility to apply for such a posted promotional opportunity shall be open to any employee provided the employee meets the minimum requirement(s) for the classification and has performance evaluations of

meets requirements or better for the past twenty-four (24) months. If the employee has been employed for less than twenty-four (24) months, all previous evaluations must reflect meets requirements or better performance.

CHAPTER FOUR

CLASSIFICATION AND COMPENSATION

4.1 ESTABLISHMENT AND MAINTENANCE

The classification and pay plan for Department employees shall be established in accordance with procedures in the Metro Charter. The Human Resources Manager shall, subject to the provisions of the Charter, be responsible for the maintenance and administration of the classification and pay plan and shall do the following in regard to the pay plan:

- A.** Classification titles shall be assigned to every position in the department.
- B.** Job descriptions of every classification shall be prepared and updated as needed. A copy of each job description shall be maintained by the Human Resources Division and made available for inspection during work hours with reasonable notice.
- C.** Each position shall be evaluated and assigned to a proper classification in accordance with the established classification plan or the reclassification policy approved by the Board.
- D.** Records shall be maintained reflecting such data and information as is necessary for the administration and maintenance of the classification and pay plan.
- E.** Classification and pay review studies based on job functions, responsibilities, and non-wage benefits shall be conducted periodically (either by the Department or the Metropolitan Government) and used for comparison and updating purposes. Such studies should include periodic wage and salary surveys. Priorities for study shall be established by the Director, Human Resources Manager, and other management officials and may consider input from employees. Revisions to the classification and pay plan shall be recommended to the Board for approval.

4.2 GENERAL PAY PROVISIONS

Employees shall be paid in accordance with the established pay plan, Civil Service Rules and policies. No employee shall be paid at a rate less than the minimum rate nor more than the maximum for a classification as provided for in the pay plan, except as provided for in these rules regarding demotion and voluntary reduction, and as provided in the Red-lining Employee Salary policy (those circumstances in which employees retain salaries above the maximum of the new salary range).

Part time employees may be paid by the hour or paid a proportional amount of the pay plan rate according to the time worked. The Board may adopt special pay provisions as needed to cover unusual situations, such as irregular part-time, seasonal, temporary, or grant-funded arrangements.

The open range (OR and HD) pay scales will consist of a minimum, midpoint, and maximum salary. Employees may be compensated anywhere in the

range commensurate with education, experience, performance level, skills, and abilities, and in accordance with all other Rules.

The step (ST) pay scales will consist of 10 steps as defined in the pay plan.

4.3 RELATIONSHIP OF PERFORMANCE EVALUATION TO PAY INCREASES AND PROMOTIONS

Performance evaluations will be conducted on all employees on an annual basis. To be eligible for an open range (OR and HD grades) increase in conjunction with a performance evaluation, an employee must have been hired by August 1st of the previous year. In cases where the Metro Budget or ordinance specifies a conflicting hire by date, the Metro Budget or ordinance prevails. The annual evaluation shall be used in such a way as to determine whether the employee has qualified himself/herself for a pay increase as provided by the pay plan, available funds, and Director. The pay plan may provide for pay increases to high-performing employees and/or for employees who meet departmental expectations.

Pay increases will be granted only upon completion of a performance evaluation that is rated "Meets Expectations" (or the equivalent) or better. Employees whose overall performance score is below "Meets Expectations" (or equivalent) will not receive a pay increase. Employees with a score of "Does Not Meet Expectations" (or equivalent) will be placed on a Performance Improvement Plan (PIP) unless a PIP, reprimand, or disciplinary action addressing the conduct already occurred during the year under review. Employees on a PIP will be reevaluated within three (3) months of the evaluation date. If by the time of reevaluation the employee's performance has not improved to a satisfactory level, the supervisor and Bureau Director will assess the performance issues and submit a request for disciplinary action, if warranted.

In order to qualify for a promotion, an employee's previous evaluations must reflect a level of past performance which has been rated "Meets Expectations" (or equivalent) or better for the past twenty-four (24) months. If the employee has been employed for less than twenty-four (24) months, all previous evaluations must reflect "Meets Expectations" or better performance.

4.4 EFFECT OF LEAVE WITHOUT PAY ON SALARY INCREASES

An employee assigned to an open range pay grade (OR and HD) must be in a paid status for at least nine (9) months during the evaluation period to be eligible for an open range increase.

An employee assigned to a step (ST) pay grade will have their increment date adjusted for leave without pay in excess of 20 work days in a calendar year.

4.5 PROMOTION, RECLASSIFICATION, DEMOTION, VOLUNTARY REDUCTION IN GRADE, AND TRANSFER

A. PROMOTION AND RECLASSIFICATION

When an employee is promoted, the employee's rate of pay will be increased to reflect the additional duties and responsibilities of the new classification. Employees who are promoted within the open range (OR and HD) salary grades will receive a seven and one-half percent (7.5 %) increase in pay or the minimum salary of the new classification, whichever is greater. Employees on a step (ST) salary grade will be promoted by first determining the employee's promotional step by moving forward two steps in the current range. The new pay rate is established by slotting the employee into the step in the new range that is closest to, but not less than, the employee's promotional step. Employees on a step (ST) salary grade being promoted to an open range (OR and HD) salary grade will receive the promotional step or the minimum salary of the new classification, whichever is greater. An employee may be promoted to a supervisory position and be compensated at a lesser rate than a direct subordinate, if the maximum salary in the subordinate's classification overlaps the minimum salary in the supervisor's classification. When this situation occurs, it shall not be grounds to request a salary adjustment for the supervising employee.

Reclassifications normally do not result in an increase in pay unless the nature of the reclassification and any changes in duties warrant an increase (as provided by the Reclassification policy approved by the Board).

B. DEMOTION AND VOLUNTARY REDUCTION IN GRADE

When an employee in one classification is demoted for cause to another classification, his/her rate of pay shall be reduced within the range of the new classification as recommended by the Director or designee.

The rate of pay for a voluntary reduction in grade will normally be the employee's current salary provided it falls within the salary range of the lower classification. An employee may be redlined at his/her current pay rate if recommended by the Director, in accordance with the Red-lining Employee Salary policy. If the voluntary reduction in grade is in lieu of layoff, the Director may designate any lower rate in the new salary range as a condition of the voluntary reduction in grade or may utilize the Red-lining Employee Salary Policy. An employee will acknowledge in writing that he/she is accepting a voluntary reduction in grade in lieu of layoff.

A work test is not required for a voluntary reduction in grade to the same or similar position responsibilities, but the employee must have a performance evaluation by the end of six (6) months in the new position. A work test is required for a voluntary reduction in grade to a position with different responsibilities. If an employee subsequently wishes to return to the higher classification, he/she must compete in the promotional process.

C. TRANSFER

If the employee maintains his/her current classification, then his/her rate of pay will remain the same. If his/her classification changes, but does not result in a promotion or demotion, the Director may determine the appropriate salary based on the relationship of the duties and responsibilities of the two positions, and the application of the Red-lining Employee Salary policy. Should an employee accept a transfer at a lesser rate of pay, the acceptance shall be acknowledged in writing by the employee.

4.6 ESTABLISHMENT OF INCREMENT DATES

To set a new increment date following a change of status, use the appropriate procedure for the status change listed below:

Procedure 1. Using the appropriate pay table in the pay plan book look-up the employee's new grade and step. The number of months until the next step is shown at the bottom of the pay table. Set the increment date that many months from the effective date of the status change.

Procedure 2. The employee will be given credit for the time served toward his increment prior to the status change. First determine the increment date using procedure 1. Then move the increment date up the number of months that the employee served toward his increment prior to the status change.

1. **New Hire, Promotion, Upgrade, Demotion and Re-employment:** Use procedure 1.
2. **Layoff and Return from Disability Pension:** Use procedure 2.
3. **Reclassification:** Use procedure 1 if the reclassification results in an increase equal to or greater than one increment step. Use procedure 2 when it does not result in such an increase.
4. **Rollback in Lieu of Layoff:** Use procedure 2.
Roll-up: If the employee is subsequently rolled up to the former classification the increment date will be based on the date rolled-up and the employee will be given credit for time served toward his increment prior to being rolled back.
5. **Transfers:** Use procedure 2. When an employee transfers to an equal or lower classification or step. When an employee transfers in the same classification and same step his increment date will remain the same.
6. **Transitioning from Non-Civil Service Status:** When employees who are not Civil Service transition into Civil Service positions, the increment date shall be determined as follows: Use procedure 2. if the employee transitions to a classification of equal or lower grade. Use procedure 1. if the employee transitions into a higher grade from an eligibility register.

7. **Absences:** Time off due to accumulative absences without pay in excess of twenty working days within a calendar year shall extend the employee's increment date. The new date will be determined by extending the original established increment date by the number of days missed in excess of twenty working days.
8. **Early Increment Advance:** When an employee receives an increment prior to the normal amount of time prescribed in the pay plan the increment date will be reestablished based on the effective date of the early increment.
9. **Pay Plan Implementation:** Increment dates may be adjusted in order to implement a new pay plan upon approval of the Board of Health.
10. **Reinstatement:** When an employee demoted or dismissed is reinstated by the Board of Health, the Board shall determine the increment date.
11. **Ineligibility for an Increment:** Being ineligible for an increment, under the provisions of Section 4.3, due to performance that is below "Meets Expectations" (or equivalent) will not change the increment date.
12. In the event of an **Equity Adjustment** or status change not specifically or adequately addressed in this section, the HR Manager will designate the appropriate increment date.

4.7 SPECIAL PAY PROVISIONS

The Human Resources Manager shall designate the classifications that are to be considered non-exempt, exempt, or top management for the purposes of this section in accordance with the definitions set out in Chapter 7.

A. OVERTIME PAY

1. It is the policy of the Department that overtime shall not be worked unless essential to accomplishing the work of the Department, to the public interest, or to preserve public health and safety. Where overtime is deemed necessary, the opportunity to work overtime should be offered equally to all non-exempt employees qualified to do the work, in the same program or division. All overtime work must be authorized in advance by the job supervisor or designee (except in emergency situations).
2. Any overtime work shall be scheduled in advance (except in emergency situations) by the immediate supervisor of the non-exempt employee working the additional hours. Such an employee shall have the right to refuse overtime unless twenty-four (24) hours advance notice is given. If it is determined by the Director or designee, that an emergency status exists affecting the health, welfare, and/or safety of the community or the efficient operations of the department, the advance notice is waived.
3. Rate of pay for overtime shall be calculated at one and one-half (1.5) times the employee's hourly rate of pay.
4. In no event will there be any pyramiding or compounding of overtime and holiday pay, e.g. an employee who works ten (10) hours on a holiday will be

compensated for all times at the holiday rate. The additional two (2) hours will not be paid at three and three-fourths (3.75) the regular rate of pay.

B. COMPENSATORY TIME IN LIEU OF OVERTIME – ELECTION BY NON-EXEMPT EMPLOYEE

Non-exempt employees may elect to receive compensatory time off in lieu of overtime in accordance with the provisions as set out below. Election of comp-time must be voluntary on the part of the employee. Once the employee makes this election, that choice is entered into the Kronos system as the employee's elected option for the following year.

1. Such compensatory time off shall be earned at a rate of one and one half (1.5) hours for each hour of overtime worked.
2. A non-exempt employee cannot accrue more than two hundred and forty (240) hours of compensatory time off in a calendar year. A non-exempt employee who has elected compensatory time in lieu of overtime and has accrued two hundred and forty (240) hours of compensatory time off shall be paid overtime compensation for any additional overtime hours worked above the limit.
3. A non-exempt employee who has accrued such compensatory time off shall be permitted to use such time within a reasonable period after making the request if the use of compensatory time off does not unduly disrupt the operations of the Department. An employee is required to utilize any accrued compensatory time before taking vacation leave.
4. A non-exempt employee who has accrued compensatory time off, shall upon termination be paid for the unused compensatory time at a rate of compensation not less than:

The average regular rate received by such a non-exempt employee during the last three (3) years of employment with the Department,

or

The final regular rate of pay received by such an employee, whichever is higher.

5. The Director may make these rules and/or related policies more specific, particularly in regard to the time period for which a non-exempt employee may elect to accrue and take compensatory time and/or when he/she shall be compensated as long as said time period for same is less than the maximum period established by the Board.

C. COMPENSATORY TIME FOR EXEMPT EMPLOYEES

Top-level management employees are not eligible for overtime or compensatory time off. All other exempt employees who are required to work in excess of their regularly assigned work schedule during the designated work period shall be granted compensatory time, such time to be computed at straight time.

Certain exempt employees may receive pay in lieu of compensatory time under emergency situations.

The exempt employee may be permitted to use such compensatory time earned within a reasonable time after making the request, if the use of such time does not unduly disrupt the operations of the Department. An employee is required to utilize any accrued compensatory time before taking vacation leave.

D. WORK HOURS AND OVERTIME AND/OR COMPENSATORY TIME

Computation of overtime and/or compensatory time shall be based on time worked in excess of 40 hours in a designated work period. Time scheduled as vacation, holiday, jury duty, or injured in line-of-duty during a designated work period shall be construed for purposes of calculating overtime or compensatory time as time actually worked.

E. ACCRUAL AND PAYMENT OF COMPENSATORY TIME

1. Compensatory time will be accrued on an annual basis beginning on January 1st and ending on December 31st.
2. Non-exempt employees will normally be paid for unused compensatory time on an annual basis, but may be paid quarterly or semiannually if provided for in the department's rules. Non-exempt employees who have compensatory time on the books as of December 31st, which has not been taken or scheduled by April 30th of the following year, will be paid for such compensatory time by May 22nd at the employee's regular rate of pay at the time payment is made.
3. Exempt employees will not be paid for unused compensatory time except when laid off. An exempt employee must use all compensatory time accrued in a calendar year by June 30th of the following year or such time will be forfeited.

4.8 COMPENSATION FOR WORK ON AN OFFICIAL HOLIDAY

A non-exempt employee who is required to work on an official holiday shall be compensated at one and a half (1.5) times his/her regular hourly rate for each hour actually worked on the holiday, in addition to receiving his/her regular pay for the holiday. If the non-exempt employee has elected compensatory time, he/she shall receive his/her regular pay plus one and a half (1.5) hours compensatory time for each hour worked on the holiday.

Exempt employees who are required to work on a holiday shall receive compensatory time off, such time to be computed at straight time equal to the number of hours actually worked on the holiday. Non-supervisory professionally exempt employees working on a holiday may, at the discretion of the Director or designee, earn one and a half (1.5) hours for each hour worked.

4.9 SHIFT DIFFERENTIAL PAY

Shift differential pay may be authorized in conformance with policy(ies) approved by the Board.

4.10 WORKING IN A HIGHER CLASSIFICATION

If an employee is formally assigned duties, responsibilities, and/or work assignments of a higher job classification than his/her current classification, the

employee shall receive "out-of-class" compensation in accordance with the guidelines below.

Those duties, responsibilities, and/or work assignments must be typical and customary of an existing higher classification, and neither specified in, nor typical and customary of, the employee's current, equivalent, or lower classification.

No supervisor shall assign such duties, responsibilities, and/or work assignments to any employee unless and until the supervisor ensures that the provisions of subsection (B), below, are satisfied.

- A.** The rate of the out-of-class pay shall be equivalent to the rate the employee would receive if actually promoted.
- B.** In order to qualify for out-of-class compensation, the assignment:
 - 1.** Must receive prior written approval from the Director and from the Finance and Administration Bureau Director;
 - 2.** Must have become necessary due to the absence of an incumbent or vacancy in a budgeted position of the higher classification; and,
 - 3.** Must be made to an employee who meets the minimum requirements of the higher position.
- C.** Out-of-class compensation shall begin on the first day the employee performs the higher level work, provided he/she continues to do so for more than ten (10) consecutive work days. Performing out-of-class duties for ten (10) consecutive work days or less does not qualify for the higher rate of pay.
- D.** If an employee receives a pay increase in his/her lower classification while he/she is working in the higher classification, his/her out-of-class pay shall be recalculated based upon the new rate in the lower classification. The employee may or may not realize an increase in his/her out-of-class rate.
- E.** If an employee working in a higher classification is promoted to fill the position for which he/she has been working out-of-class, the employee's rate of pay will be set at the rate he/she is being compensated at while working out-of-class.
- F.** An employee who qualifies for out-of-class compensation shall continue to receive the higher rate of pay while on vacation leave, sick leave, or an official holiday provided the higher position is not being filled by another employee during that time.
- G.** No out-of-class assignment may exceed one hundred (100) working days in a calendar year without the review and approval of the Board, except when the employee normally assigned to the position is on extended leave. In such cases the out-of-class assignment may continue until the leave expires.

4.11 ORIGINAL APPOINTMENT

The minimum salary rate normally shall be paid on original appointment. All requests to hire above the minimum salary must be approved by the Director or designee. Those requests for a salary above the midpoint require Board approval and are submitted for their approval at the discretion of the Director. The hiring supervisor must provide justification to the Bureau Director, who if in agreement will submit the request to the Director.

Note: The Public Health Nurse 1 classification allows for appointment above the minimum salary as outlined in the pay plan.

4.12 CALL BACK PAY

An employee called to report to a work site outside his/her regularly scheduled time will be compensated for a minimum of two (2) hours, except when such time is continuous with the employee's work shift. This does not apply to work performed at home. For multiple call backs within the same day (midnight to midnight), such employee will be compensated for the total, actual call-back work time during that day, or for at least two hours, whichever amount is greater.

4.13 SEPARATION PAY

An employee whose services are being terminated, either voluntarily or involuntarily, shall be paid for all regular earnings due and for accrued vacation leave pay, but shall not be paid for any unused personal leave or sick leave except as part of a sick leave buyout program approved in accordance with section 5.6 F (Sick Leave Buyout). In addition, an employee whose services are being terminated because of layoff will be entitled to payment for compensatory time due as provided elsewhere in these rules. Terminated employees will not accrue additional vacation or sick leave or receive holiday pay once they are no longer reporting to work.

CHAPTER FIVE

ATTENDANCE AND LEAVE

5.1 WORK HOURS

The currently established regular work week for the Department's employees shall be Saturday through Friday. The regular hours of work shall be from 8:00 a.m. to 4:30 p.m., Monday through Friday. Some employees may be assigned a different schedule (work week or hours) either temporarily or permanently due to the particular needs and/or existing conditions in a given program, division, or other organizational unit.

5.2 ABSENTEEISM AND TARDINESS

All employees are expected to be prompt in reporting for duty at the beginning of each work day, returning from breaks, returning from lunch, and are expected to be in attendance as scheduled and in compliance with department policy and procedures. Regular, reliable, and predictable attendance is required of all employees.

5.3 ABSENT WITHOUT LEAVE (AWOL)

An employee who fails to report to work for whatever reason, unless prior approval has been given, shall be required to notify his/her supervisor stating a reason for his/her absence. This notification must be made as soon as possible, which should be no later than during the first thirty (30) minutes of the employee's scheduled workday. Failure to give timely notice shall result in the employee being charged with being absent without leave (AWOL). When timely notice is given, the supervisor may either approve the absence, state a time by which the employee must report, or deny the request for leave and charge the employee with being AWOL.

An employee's failure to comply with this rule, or having time recorded as absent without leave, may be grounds for disciplinary action.

Any absence without leave which continues for three (3) consecutive work days may be considered job abandonment. In such case, any associated charge letter and notice of hearing will be considered delivered if sent by the Department to the employee's most recent address of record, using regular U.S. mail, and the associated hearing date will be no sooner than seven (7) work days from the date of mailing.

5.4 ELIGIBILITY TO OBSERVE AND ACCRUE LEAVE

Full-time, probationary, and part-time employees who work at least twenty (20) hours per week are eligible to observe paid holidays and accrue vacation and sick leave. Part-time employees who are scheduled to work at least twenty (20) hours per week shall observe pro rata holidays and earn vacation and sick leave at the same proportion as their scheduled hours bear to a regular full-time work week.

An employee whose services are being terminated, either voluntarily or involuntarily, shall not accumulate any additional vacation or sick leave once they are no longer reporting to work (see Section 4.12 Separation Pay).

Temporary, seasonal, emergency, contractual, and part-time employees who work less than twenty (20) hours per week shall not be eligible to receive pay for holidays or earn vacation and sick leave.

5.5 VACATION LEAVE

A. VACATION LEAVE ACCRUAL

Vacation leave is accrued on the first day of each month based upon the employee's continuous service date and the employee's attendance record during the previous month. Generally, with some exceptions, an employee must be in a paid status the entire calendar month in order to earn a vacation leave day. A new employee's vacation leave shall begin to accrue once he/she has worked in a paid status for an entire calendar month, but may not be utilized until after completion of the probationary period. The Bureau Director will determine those situations (if any) where a new employee may be granted approval to use vacation leave before the end of their probationary period. Employees who have completed a probationary period with another Metro Department and are employed via a department transfer or are recalled after a layoff are not required to complete their probationary period (if applicable) before utilizing their vacation leave. Partial credit towards completion of a probationary period will be given to a department transfer for purposes of utilizing vacation leave only. No employee may give or loan vacation leave to another employee.

Vacation leave not used during the calendar year may be carried forward to subsequent years up to the maximum accumulation amounts shown in this section.

<u>Years Of Service</u>	<u>Number of Hours Earned Per Month</u>	<u>Per Year</u>	<u>Maximum Accumulation</u>
Less than 5 years	8	96	240
5 Years	12	144	360
10 Years	14	168	420
20 Years	16	192	480

B. REQUESTING VACATION LEAVE

Vacation leave requests should be submitted as early as possible. The leave request must be approved before the employee takes the time off. Where scheduling makes it necessary, the supervisor may institute a policy requiring a specific notification time frame in order to ensure that adequate coverage of services can be provided. In granting the leave, consideration must be given to the needs of the department and to the ability of the remaining staff to perform the work.

If an employee properly submits a request for vacation leave, it is his/her supervisor's responsibility to promptly inform the employee if the supervisor denies that request.

C. PAYMENT FOR VACATION LEAVE

Any earned but unused vacation leave credited to an employee shall be allowed to run out or be paid to said employee upon his/her termination of employment from the Department as elected by the employee. Certain Metro Human Resources policies and special programs require unused vacation leave to be paid in a lump sum by a certain date upon separation.

5.6 SICK LEAVE

A. POLICY

Sick leave shall be considered a benefit and privilege and not a right. An employee may utilize his/her sick leave allowance for absences due to his/her own illness, condition, non-occupational injury or illness, or possible development or existence of a contagious disease endangering the health of other employees. Sick leave may be used for appointments with a licensed health professional.

Sick leave may also be used for absences due to illness, injury, condition, contagious disease, or licensed health professional appointment of a spouse, parent, child or domestic partner who lives in the employee's household or for whom the employee is the primary caregiver as well as provisions specified in Section 5.14 (Maternity, Paternity, and Adoption Leave).

When appropriate, a partial sick day shall be used rather than a full day. Any planned use of sick leave (such as for a doctor's appointment) must have prior approval of the employee's supervisor. Employees who become ill during the period of their vacation leave may request that their vacation leave be temporarily terminated and the period of illness changed to sick leave. Prior to granting or denying the change, the supervisor may request a health professional's statement. No employee may give or loan sick leave to another employee.

B. SICK LEAVE ACCRUAL

Sick leave is accrued on the first day of each month based upon the employee's attendance during the previous month. Generally, with some exceptions, an employee must be in a paid status the entire previous calendar month in order to earn a sick day. A new employee's sick leave shall begin to accrue once he/she has worked in a paid status for an

entire calendar month. Employees shall accumulate sick leave at the rate of eight (8) hours per month. Unused sick leave may be accumulated to a maximum of fourteen hundred and forty (1,440) hours for employees hired before July 1, 2004. Employees hired on or after July 1, 2004 may accumulate a maximum of nine hundred and sixty (960) hours of sick leave.

Any hours earned in excess of the fourteen hundred and forty (1,440) or nine hundred and sixty (960) hour maximum will be placed in a separate "bank" as pension credits, to be applied toward a service pension (as outlined by Employee Benefit Board guidelines). Once pension credits are placed in this bank, they cannot be transferred back for regular sick leave use. For example, an employee has fourteen hundred and forty (1,440) sick hours and accrues ninety-six (96) more hours which are placed in the "bank" as pension credits. If he/she uses one hundred and sixty (160) hours of sick leave, they will be deducted from the fourteen hundred and forty (1,440). The ninety-six (96) hours of pension credits will remain in the bank. The employee would have to accrue one hundred and sixty (160) hours of sick leave and reach fourteen hundred and forty (1,440) again before any additional hours go in the bank as pension credits. Any hours in the bank as pension credits are never available to be used for sick leave.

C. MEDICAL DOCUMENTATION OF SICK LEAVE

An employee may be required to provide a health professional's statement verifying his/her use of sick leave, regardless of the length of time involved, when abuse of sick leave is suspected, or where there is persistent irregular, unreliable, or unpredictable attendance. Such statement should verify that the time was needed for any of the reasons outlined in subsection A, above, but the statement should not give specific medical information. If the Director has reason to question the validity of a claim for continued sick leave, he/she may require additional documentation.

When an employee's continuing illness spans ten (10) or more work days in a three (3) month period, he/she may be required to furnish a health professional's statement which shall include the date the employee is anticipated to return to work without further absenteeism. Additional statements may be required for subsequent absences thereafter until the employee returns to having regular, reliable, and predictable attendance.

If an employee is reasonably believed to no longer be able to perform the essential duties of his/her position, the Director may refer him/her to the Civil Service Medical Examiner for a recommendation as to the provision of reasonable accommodation or the employee's fitness for continued employment. If the Civil Service Medical Examiner determines that the employee is not physically fit for continued employment and his/her condition cannot be reasonably accommodated, the Director or Civil Service Medical Examiner will notify the employee that he/she must immediately apply for a disability pension from the Metropolitan Government, if eligible.

D. ABUSE OF SICK LEAVE

Employees who abuse sick leave, or deliberately cause others to make false or misleading statements or claims, shall be subject to appropriate disciplinary action (including dismissal). Any supervisor knowingly approving an employee's use of sick leave contrary to these Rules shall also be subject to disciplinary action.

E. CONVERSION OF SICK LEAVE TO PERSONAL LEAVE

Employees having one hundred and ninety-two (192) or more sick leave hours as of January 1 may elect to convert up to twenty-four (24) sick leave hours to twenty-four (24) personal leave hours. Such personal leave hours are not cumulative, they must be scheduled and taken in the current calendar year, and they cannot be reconverted to sick leave. Hours not converted to personal leave will continue to accumulate as sick leave.

F. SICK LEAVE BUY-OUT

Generally, when an employee leaves employment with Metro Government, he/she forfeits unused sick leave. Upon approval by the Board and the Department of Finance, however, a program may be enacted to allow retiring employees to be paid for a portion of unused sick leave. The specifics of any such plan will be determined in conjunction with the approval required.

5.7 HOLIDAYS

A. HOLIDAY SCHEDULE

The following will be declared official holidays, and all employees will be excused without charge to leave, except those employees required to maintain essential operation, who shall be compensated in accordance with Section 4.8.

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

Holidays that fall on Sunday will be observed on the following Monday and holidays that fall on Saturday will be observed on the Friday before, by those employees working Monday through Friday. On those occasions when Christmas Day falls on Monday, the Christmas Eve holiday will be observed on the Tuesday following Christmas Day; on those occasions when Christmas falls on Saturday, the Christmas holiday will be observed on the subsequent Monday. If a holiday is observed on an employee's

day off, the employee may be scheduled for a floating holiday during the week of the holiday or the following week. If community practice dictates a change in the day observed, the Director shall have discretion to change the date(s) for that year.

B. EFFECT OF LEAVE WITHOUT PAY ON HOLIDAY PAY

An employee who is on any form of leave without pay on the work day immediately preceding or immediately following a holiday or holiday weekend shall not be paid for the holiday. This provision applies to absences of any length of time. Official holidays occurring during any other paid leave shall not be charged to the employee's other paid leave time.

5.8 INJURY-ON-DUTY (IOD) LEAVE

A. PURPOSE

Injury leave is used when an employee has an on-the-job injury or develops an occupational illness arising from employment with the Department. It is intended to provide salary continuation and job security until such time as the employee can return to his/her regular duties, with or without accommodation, or is determined as disabled from performing the essential duties of his/her job.

B. NOTICE OF INJURY

Injury - Every injured employee or his/her representative shall, immediately upon the occurrence of an injury, even if medical attention is not needed, give written notice of the injury to his/her supervisor. If an injury is not realized upon occurrence, written notice must be given the next working day after realization and within ten (10) work days after the occurrence of the injury.

Occupational Illness - When an incident occurs which may result in an occupational illness, the employee or his/her representative shall immediately give written notice of the incident to his/her supervisor, even if no medical treatment is needed at that time. If a directly related occupational illness develops later, the employee must give written notice to his/her supervisor within ten (10) working days after diagnosis.

General Notice Requirements - Reporting of injuries-on-duty and follow-up case management will be under the guidelines of the Employee Benefit Board.

C. DETERMINATION OF INJURY LEAVE

It shall be the responsibility of the Director or designee to determine if an employee reporting an injury or occupational illness is entitled to injury leave. An employee may appeal through the grievance procedure if he/she disagrees with the determination.

Injury leave should not be granted in the following circumstances:

Injury

1. Injury leave should be denied in those cases where the written notice is given on time, but the Director or designee has reason to

doubt the legitimacy of a claim for injury leave or the medical information is inconclusive.

2. Injury leave should be denied from the date of an injury to the date of giving written notice unless it can be shown that the supervisor had actual knowledge of the accident.
3. Injury leave should be denied if written notice of the injury is not given to the supervisor immediately and the Director or designee has reason to doubt the legitimacy of the claim for injury leave.
4. Injury leave should be denied if written notice is not given within ten (10) working days of the accident unless it can be shown that the supervisor had actual knowledge of the accident.

Occupational Illness

1. If the illness is attributed to a specific incident and the employee failed to give written notice of the incident immediately to the supervisor, injury leave should be denied. Some illnesses are not attributable to a specific accident or illness. In such cases injury leave should be denied if the Director or designee has reason to doubt the claim for injury leave or the medical information is inconclusive.
2. Injury leave not attributable to a specific incident should be denied if written notice of the illness is not given to the supervisor within ten (10) working days of the diagnosis.

Willful Misconduct, Intentional Self-inflicted Injury, and Pre-existing Conditions

Injury leave should be denied if the injury is due to: the employee's willful misconduct or intentional, self-inflicted injury; to the employee's intoxication; the employee's willful failure or refusal to use a safety appliance; or, a sports-related injury of the employee unless participation in that sport is required by the job description.

In order for aggravation of a pre-existing condition to be covered as injury leave, the employee must cite the specific incident that caused the present problem.

D. PERIOD OF COMPENSATION

Leave for an injury shall extend for such time as the injured employee is unable to work, but in no event beyond one hundred and thirty (130) work days for the same or recurring injury.

When the Civil Service Medical Examiner determines that the employee is disabled and will not be able to return to work, after full consideration of possible reasonable accommodation, the employee should immediately apply for the appropriate pension. An employee applying for a disability pension is required to notify the Director, who will investigate the possibility of accommodating the employee's restrictions before the pension application is processed.

If, after exhausting all one hundred and thirty (130) work days of injury leave, an employee has returned to work, and the medical information confirms that surgery is required for the same injury, the employee shall receive up to thirty (30) work days additional compensation per calendar year for the purpose of having surgery performed and rehabilitation from this surgery. This additional leave shall be available so long as the employee is actively at work for Metropolitan Government.

E. COMPENSATION RECEIVED

For the first ten (10) working days an employee cannot return to regular duty due to an approved injury on duty, he/she shall be entitled to receive one hundred percent (100%) of his pay. After exhausting ten (10) working days of IOD pay, the employee shall be entitled to receive ninety percent (90%) of his/her pay thereafter as established by the Pay Plan during the remainder of his/her IOD leave, subject to all other provisions as set out herein.

In no event will injury leave reduce an employee's compensation below the established living wage.

F. USE OF SICK LEAVE

An employee who is injured on-the-job or develops an occupational illness shall be granted injury leave. Such leave shall not be charged against the employee's sick leave nor may the employee use sick leave for such time with the following exception: An employee shall be allowed to use up to five (5) of his/her sick days available in each subsequent year for a recurrence of an IOD injury after the initial one hundred and thirty (130) days of injury leave are exhausted.

G. EMPLOYEE CLAIM AGAINST THIRD PARTY

When an on-the-job injury was caused under circumstances creating a legal liability against someone other than the Metro Government, the injured employee shall have the right to receive injury leave benefits and may pursue his/her remedy by proper action in a court of competent jurisdiction against the person. In the event of recovery against such third party by judgment, settlement or otherwise, and the Government's maximum liability for benefits has been partially or fully paid and discharged, the Government shall have a subrogation right thereof against such recovery. If the net recovery by the injured employee exceeds the amount paid by the Government and a future liability is anticipated, the Government shall be entitled to a credit on its future liability.

5.9 MILITARY LEAVE

A. ANNUAL MILITARY LEAVE

Employees who are members of any military reserve component will be granted Military Leave, with pay, for such time as they are in the military service on field training or active duty for periods not to exceed twenty (20) work days per calendar year. Such requested leave shall be supported with copies of the armed forces orders and follow-up

documentation and shall be granted by the Director or designee. Such leave with pay is not permitted for initial basic training.

B. ADDITIONAL TRAINING

Employees who are members of a military reserve unit who have completed their military training duty for the calendar year and are reactivated for additional training will be allowed an additional twenty (20) work days military leave, with pay, if the additional military training:

1. Occurs during the same calendar year, and
2. Fulfills the employee's military training obligation for the subsequent calendar year.

C. REEMPLOYMENT FOLLOWING ACTIVE DUTY

Former employees will be granted reemployment rights as provided by law.

5.10 JURY DUTY

Upon receiving a summons to report for jury duty any employee shall, on the next day he/she is engaged in his/her employment, exhibit the summons to his/her immediate superior and the employee shall thereupon be excused with pay from his/her employment for the day or days required of him/her while serving as a juror in any court of the United States or the State of Tennessee, provided that such employee's responsibility exceeds three (3) hours during the day for which excuse is sought. When jury service, including travel, does not exceed three (3) hours, the employee shall be required to return to work. In addition to his/her pay, the employee will be allowed to retain any per diem paid to him/her by the court. During the absence, it is the employee's responsibility to notify his/her supervisor of any changes in the anticipated duration or schedule of jury duty. After completion of the jury duty, the employee must submit a written notice verified by the court clerk's office showing the hours served on jury duty.

If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, such employee shall also be excused with pay from his/her employment as provided by this section for the shift immediately preceding his/her first day of service on any lawsuit. After the first day of service, when such person's responsibility for jury duty exceeds three (3) hours during a day then such person shall be excused from his/her next scheduled work period occurring within twenty-four (24) hours of such day of jury service. Any question concerning the application of this provision to a particular work shift or shifts shall be conclusively resolved by the trial judge of the court to which the employee has been summoned.

5.11 BEREAVEMENT LEAVE

In the event of a death in an employee's immediate family, the employee shall be granted a reasonable paid absence up to three (3) work days. An

employee may be granted up to one (1) full work shift to attend the funeral of a member of the extended family. See definition of family in Chapter 7.

5.12 AUTHORIZED LEAVE WITHOUT PAY

Authorized leave without pay may be granted at an employee's request and only at the discretion of the Director or the Director's designee, for any reason, up to one hundred and twenty (120) calendar days. Leave without pay which exceeds the previously stated limits must be approved by the Board. Requests for leave without pay must be in writing, stating the specific reasons for the request. The employee's length of service, job performance record, attendance record, the special circumstances surrounding the request, and the needs of the affected program or division and the Department will all be taken into consideration in evaluating the request.

If leave without pay is granted, the Director shall not fill the position held by the employee, except temporarily, until the leave of absence has expired and not been extended, or until the employee notifies the Director in writing that he/she will not be returning to the position.

The Director may rescind leave without pay and order the employee to return to work.

Leave without pay in excess of twenty (20) cumulative work days in a calendar year will be deducted from the employee's continuous service date for the purposes of determining longevity and civil service benefits.

The above provision concerning the maximum length of time an employee may be granted leave without pay does not apply to employees on leave pursuant to a reasonable accommodation under the Americans with Disabilities Act or on leave pursuant to the Family Medical Leave Act or Tennessee law regarding leave for adoption, pregnancy, childbirth and nursing an infant.

5.13 ADMINISTRATIVE LEAVE

Administrative leave may be granted to any employee at the discretion of the Director or Director's designee when, in his/her judgment, there exists good cause in the best interests of the Department to do so. Administrative leave shall be with or without pay, and may not exceed ten (10) work days without the approval of the Board. However, in instances where more than ten (10) days of administrative leave is needed and the Board does not meet within the ten (10) day period, administrative leave may be granted by the Director until the next meeting of the Board.

5.14 MATERNITY, PATERNITY, AND ADOPTION LEAVE

Leave of up to 16 weeks in duration will be granted for maternity and paternity purposes upon the birth or adoption of a child. The employee may take any accumulated sick leave for which he or she is eligible. Accumulated personal leave and vacation time may also be used to supplement sick leave. Provisions of the Family and Medical Leave Act (FMLA) and the Tennessee Maternity Leave Law shall apply.

5.15 FAMILY AND MEDICAL LEAVE ACT OF 1993

Employees who are eligible for leave under the Family and Medical Leave Act (FMLA), may be granted an appropriate form of leave, paid or unpaid, as established by law.

5.16 FIRST DAY OF SCHOOL AND PARENT TEACHER CONFERENCES

Employees who are scheduled to work shall be granted up to three (3) hours administrative leave on the first day of school to attend school with their children, or attend an early school year orientation session, provided they do not disrupt the workplace. Furthermore, each employee shall be allowed to use up to six (6) hours sick, personal, or vacation leave per child per calendar year, to attend school functions or parent/teacher conferences, provided it does not disrupt the workplace.

CHAPTER SIX

EMPLOYEE CONDUCT, DISCIPLINARY ACTION AND GRIEVANCE PROCEDURES

6.1 GENERAL EMPLOYEE CONDUCT

Each employee is expected to conduct his/her self both on and off the job in such a manner as to reflect credit on his/her self, the department, and the Metropolitan Government.

It shall be the duty of each employee to maintain high standards of cooperation, efficiency, and economy in his/her work for the Department. This includes modeling the Department's Core Values. When work habits, attitude, production, or personal conduct of an employee falls below a desirable standard, supervisors shall point out the deficiency at the time it is observed. Corrective Action or other warning in sufficient time for improvement should typically precede formal disciplinary action, but nothing in these Rules and Regulations shall prevent immediate formal disciplinary action whenever the interest of the Department requires it.

It shall be the employee's responsibility to report to the Director any new conviction or alternative pleading to any misdemeanor or felony violation of Federal, State, or Local law. Written notification shall occur within three (3) business days or upon return to work (whichever occurs first).

No employee shall consciously or by overt act deprive any person of any rights to which such person is entitled under any State law, Federal law, or law, ordinance, rule, or regulation of the Metropolitan Government.

Any person may request that the Director initiate charges against an employee. As in the case with any disciplinary matter, the Director or designee shall make such inquiries and investigations necessary to determine if any corrective or disciplinary action should be taken.

Each employee shall perform his/her duties fairly, impartially, and without discrimination on account of race, color, national origin, gender, gender identity, sexual orientation, age, religion, creed, disability, marital status, family or political affiliation, employee representative organization affiliation, or other organizational affiliation.

No employee shall directly or indirectly solicit nor accept any money, service, favor or other consideration from anyone while carrying out his/her duties as an employee of the department. Employees shall comply with all Metro Code provisions and Mayoral Executive Orders regarding ethics and financial disclosures.

6.2 POLITICAL ACTIVITY

Political activities, including running for a political or contested office, or supporting someone who is running for such office, are not to be conducted at the workplace or during working hours. Time off for such purposes will be

in accordance with applicable leave policies in these Civil Service Rules. Civil Service employees should refer to state law concerning any further rights to engage in political activities.

6.3 CORRECTIVE ACTION

Corrective Action can take one of two forms, either a Reprimand or a Performance Improvement Plan (PIP), and should clearly indicate that failure to correct the behavior may result in disciplinary action. Supervisors are to give corrective action on the Department's standardized Reprimand and PIP forms.

Any supervisor may take corrective action as needed. This action is used to correct conduct that, if uncorrected, may require formal disciplinary action. Generally, reprimands are used when the behavior is expected to stop immediately after being told once. PIPs are preferred when the employee needs short-term supervision, training, practice, time, and/or coaching to demonstrably improve performance.

The employee is expected to sign the corrective action as evidence that he/she has received a copy, and such signature bears no indication of agreement or disagreement. If an employee refuses to sign, the supervisor should so note on the corrective action and date it by his/her own hand. While corrective action is not disciplinary action, an employee may state his/her version of the incident in writing and have it filed in his/her personnel file along with the corrective action. Employees do not have a right to have their corrective action disagreement heard by the Director or the Board of Health.

A copy of any corrective action **must** be placed in the employee's personnel file. After one (1) year from the date of its issuance, the document shall not be used in evaluating the performance of an employee, provided the employee received no further corrective action nor disciplinary action concerning the same or similar deficiencies. Any corrective action issued to an employee and all related documents shall, upon written request of the employee, be removed from the employee's file after a period of two (2) years, if the employee has not received any further Performance Evaluation comments, Corrective Action, or disciplinary action concerning the same, similar, or related deficiencies. This written request will be placed in the personnel file and will remain there permanently. The documents will be placed in an inactive Corrective Action file maintained by the Human Resources Division.

6.4 ABSENTEEISM AND TARDINESS

Consistent attendance and promptness are important factors of employment for all employees. Excessive absenteeism, tardiness, and/or persistent irregular, unreliable, and unpredictable absences are grounds for disciplinary action.

If an employee is late for work relative to the start of his/her regular work shift or his/her return from scheduled lunch or breaks, the employee may be subjected to loss of pay.

An employee who develops a pattern of attendance and/or tardiness problems should be counseled for improvement and should receive corrective action if counseling is not adequate. If the problems continue, the employee may be subject to disciplinary action; however, counseling and reprimand are not pre-requisites for disciplinary action, especially when incident(s) of AWOL are part of the problem.

6.5 DISCIPLINARY ACTION

A. DISCIPLINARY ACTION

The Director or designee may for just cause and after proper notice and hearing take any one or more of the following types of disciplinary action against an employee: suspension, demotion, and dismissal.

Suspension

The Director may suspend an employee without pay for cause provided that the suspension does not exceed an accumulation of thirty (30) working days during a twelve (12) month period. Any suspension requires that the employee not be allowed to report to work and that his/her pay be docked.

To protect their exempt status, exempt employees should only be disciplined in full work week increments with the following exceptions:

1. An exempt employee may be suspended one or more full days imposed in good faith for infractions of safety rules of major significance and disciplinary reasons for infractions of workplace conduct rules. This provision refers to serious misconduct, not performance or attendance issues.
2. Such disciplinary deductions may only be made in full day increments.

Demotion

Disciplinary demotions necessarily include a reduction in grade and/or salary; demotions may be temporary or full. An employee may be demoted to a lower classification with a lower salary grade or to lower pay in the same classification pay range.

1. **Temporary Demotion** - Those from thirty (30) to one hundred and eighty (180) consecutive calendar days. An employee who receives a temporary demotion in grade may continue to be assigned his/her normal duties but will not be eligible for out-of-class pay for the normal classification during the period of the temporary demotion.
2. **Full Demotion** - Those that are for an indefinite period. In order for a demoted employee to return to his/her original classification he/she must successfully compete in the promotional process.

Dismissal

An employee may be terminated from employment with the Department for cause.

B. GROUNDS FOR DISCIPLINARY ACTION

The following constitute grounds for Disciplinary Action. Unless specifically provided otherwise, these apply to the scope of employment, in the context of employment with the department, and not to employees' personal, off- duty, unpaid lives and conduct. However, these grounds do include off-duty conduct which causes a disruption in the workplace.

- 1.** Neglect or failure to perform official duty.
- 2.** Deficient or inefficient performance of duties.
- 3.** Insubordination or disrespect.
- 4.** Absence without notification or approval for leave (absence without leave).
- 5.** Failure to follow the lawful and reasonable directions given by a supervisor.
- 6.** Drinking intoxicating beverage using illegal drug, or using a prescription drug not specifically prescribed to the employee by a licensed health care professional, while on duty, whether or not under the influence of the beverage or drug.
- 7.** Being under the influence of intoxicating beverage, illegal drug, or prescription drug not specifically prescribed for the employee by a medical provider, when on duty or upon reporting to duty.
- 8.** Public intoxication while in uniform, wearing any evidence of being an employee of the Department, or when driving a government owned vehicle, whether on or off duty.
- 9.** Possession of illegal drugs, while on or off duty.
- 10.** Any violation of Civil Service or departmental rules, policies, or procedures related to the substance abuse program.
- 11.** Violation of any written Executive Orders.
- 12.** Violation of any law, ordinance, or Metropolitan Charter provision relevant to the employee's work or position, whether committed on or off duty.
- 13.** Violation of any rule, policy or procedure of the Department, including those of the employee's respective division or program.
- 14.** Violation of any rules or regulations of the Board.

- 15.** Dishonesty, including giving false statements with the intent to mislead.
- 16.** Conviction of a felony, whether committed on or off duty.
- 17.** Neglect or failure of any employee to properly and promptly make reports or furnish information specifically requested by the Board.
- 18.** Excessive absenteeism, tardiness, and/or abuse of leave, including persistent irregular, unreliable, and unpredictable attendance.
- 19.** Violation of any safety rule, regulation, or procedure.
- 20.** Unauthorized sleeping on duty.
- 21.** Damage to or loss of Metropolitan Government property caused by intentional or negligent act of the employee.
- 22.** Unlawful or unauthorized possession of a weapon, as defined by applicable laws, while on duty or while on Metro property.
- 23.** Using abusive or profane language so as to create a disturbance in the work place or when directed toward a member of the public.
- 24.** Gambling on the premises of the Department or while on duty.
- 25.** Falsifying any document of the Department or Metropolitan Government, including employment or promotion application.
- 26.** Unauthorized use or disclosure of confidential information.
- 27.** The use or threat of violence or intimidation while on or off duty
- 28.** Participation in strikes, work slow-downs, boycotts, sick-ins, picketing for the purpose of preventing others from coming to work or other similar job actions.
- 29.** Unlawful discrimination based on race, color, national origin, gender, gender identity, sexual orientation, age, religion, creed, marital status or disability.
- 30.** Any failure of good behavior which reflects discredit upon himself, the department, and/or the Metropolitan Government.
- 31.** Conduct unbecoming an employee of the Metropolitan Government.
- 32.** Any attempt (outside of official Board meetings), directly or indirectly, by an employee to influence the judgment of the Board or any member thereof, with reference to any pending appeal or review before the Board.

- 33.** Harassment toward an employee of the Department, an employee of the Metropolitan Government, or a member of the public.

E. DISCIPLINARY PROCEDURES

No suspension, demotion, or dismissal/termination of a Civil Service employee shall become effective until minimum due process is provided for the employee as outlined below; however, an employee may be placed on administrative leave with or without pay prior to or after the hearing, by the Director or designee.

- 1. Notification of charges:** The employee must be notified in writing of the act or acts that constitute grounds for disciplinary action, and the specific rules, regulations, provisions, or orders that have been violated. The notification will include the date, time, and location of the hearing with the Director or designee prior to action being taken, but the hearing may be waived at the election of the employee or his/her representative. If notification is required by mail, such notification shall be made by regular U.S. mail, certified mail, or hand-delivered.
- 2. Hearing:** The hearing will be informal, and conducted for the purpose of explaining the department's charges against the employee, and allowing the employee's response. This hearing will be conducted by the Director or designee.

The employee shall have the right to a representative. The employee shall have the right to present statements, witnesses, or any other information with regard to the charges. Attendance and participation by persons other than the Director or designee, the employee, the employee's representative, and witnesses shall be at the discretion of the Director or designee. The employee shall be able to obtain any documents and/or written statements made by witnesses regarding the charges before the hearing, unless prohibited by law. The hearing may be conducted in person, by teleconference, or other means, at the discretion of the Director or designee. The hearing may be initiated on one date, and continued to one or more subsequent dates, at the election of the Director or designee.

- 3. Notification of action taken:** The employee will be notified in writing of the action taken within ten (10) working days of the hearing. In addition, the employee will be advised that he/she may appeal the action to the Board.
- 4. Optional Appeal to the Board:** An employee may appeal the results of a disciplinary action to the Board in accordance with Section 6.6. The request must be submitted in writing specifying the grounds for the appeal and substantiating the basis for the claim. The request must be filed within fifteen (15) work days after notification of the disciplinary action taken.

6.6 DISCIPLINARY, AND GRIEVANCE APPEAL PROCEDURES

Employees may appeal disciplinary actions, and grievance decisions to the Board. The Board can hear these matters directly with the full Board or with a subcommittee of the Board authorized to hear personnel matters or can refer the matter to an Administrative Law Judge or Hearing Officer, and review those findings to make a final determination.

The Board conducts disciplinary and grievance appeals in accordance with the procedures adopted in Policy 6.6 I Disciplinary and Grievance Appeal Proceedings.

6.7 EMPLOYEE GRIEVANCE PROCEDURES

A. INTRODUCTION

The management of the Department recognizes that grievances, when handled properly, can be helpful to an organization. A sound grievance procedure can be useful in calling matters to the attention of officials when action is needed and can assist in establishing a harmonious and cooperative working relationship between employees. Every employee shall have the right to present his/her genuine, truthful, fact-based grievance under the provisions of the grievance procedures free from fear, interference, restraint, discrimination, coercion or reprisal.

Any aggrieved employee shall have the right to have one (1) representative of his/her choosing appear with him/her at all stages of the grievance procedures. A group of employees shall have the same rights to present a grievance, provided the group is represented by one (1) member of the grieving group and/or an employee representative at all stages of the grievance process.

If the grievance decision is appealed to the Board of Health, representation will be in accordance with Policy Disciplinary and Grievance Appeal Procedures. A group of employees appealing a grievance to the Board without counsel shall designate one (1) member of the group as their spokesperson.

B. DEFINITION

A grievance is defined as an employee's claim that he/she has been adversely affected by a violation, misinterpretation, misapplication or non-application of a specific law, ordinance, resolution, executive order, Civil Service Rule, regulation, procedure or policy.

C. NON-GRIEVABLE MATTERS

While the grievance procedure can be beneficial to an organization, there are boundaries that must be set concerning issues that are not grievable. These boundaries are set in order to maintain efficient operation of the Department and to prevent the obstruction of its goals and objectives.

Personality clashes with management, a dislike of managerial procedures, and claims that take issue with inherent management prerogatives are non-grievable. Additionally, disagreement with the law, rules or processes

set by management, contract terms, and/or matters within the employer's responsibility, such as health and safety, are also non-grievable.

Additionally, the following subject areas that are considered non-grievable:

1. Changes or requests for changes in the approved pay plan or benefits.
2. The merits of any uniformly applied Human Resource practice, policy, or procedure established by laws, ordinance, or Civil Service Rule.
3. Coaching or Corrective Action.
4. Reductions in work force.
5. Management rights, such as work schedules, how work is organized, work assignments, and methods and procedures by which work is performed, unless otherwise provided in these rules.
6. Employee conduct and disciplinary action subject to the provisions of Sections 6.1 - 6.5.
7. Determination by hiring supervisors or panels regarding who is the most qualified candidate for a position.

Management is to attempt to resolve these types of complaints through routine procedures (e.g. conversations, coaching, quality or process improvement). Where complaints of this nature involve an established rule or policy, employees are encouraged to suggest revisions to such a rule or policy to Human Resources at any time.

Complaints concerning these matters may not be filed as grievances by employees nor may they be accepted as grievances by supervisors. If accepted, it can be found non-grievable later by the Human Resources Manager, the Director or designee. Non-grievable complaints will not be heard by the Board of Health.

Complaints alleging discrimination or other violations of applicable EEO laws must be filed as discrimination complaints and will be processed in accordance with the Discrimination Guidelines Policy and Complaint Procedures.

In the event of a disagreement as to whether a complaint is grievable within the scope of this Rule, the employee may, by his/her simple written request, ask the Human Resources Manager to make the determination.

If the employee is not satisfied with the Director of Human Resources' final decision, he or she may appeal this decision to the Board of Health, which will make the determination on whether something is grievable and can be heard by the Board of Health.

D. GRIEVANCE PROCEDURE

- **Stage I** Written complaint form to Departmental Human Resource Coordinator
- **Stage II** Written appeal to Director of Health

Stage I: Written Complaint to Departmental Human Resources Coordinator

The first stage of any complaint consists of the employee's written presentation of his/her completed complaint form to the departmental Human Resources (HR) Coordinator. The HR Coordinator will promptly consider the complaint and determine if the matter is grievable. The HR Coordinator will take the appropriate action to resolve the grievance or to deny the grievance. He/she shall take action and/or notify the employee of his/her decision in writing within ten (10) work days of receipt of the written complaint. The written decision will notify the employee that he may appeal the decision to the Director or Designee. If the complaint is grievable and cannot be resolved between the employee and the Departmental HR Coordinator, the employee may proceed to Stage II.

Any grievance must be filed within thirty (30) work days after the event giving rise to the grievance.

Stage II: Appeal to Director of Health

The employee must write a letter to the Director or designee stating his/her complaint/grievance and requesting to proceed to Stage II. The Director or designee must receive the letter within ten (10) work days of receiving the HR Coordinator's decision. The written request should include the grounds for the appeal and substantiate the basis for the grievance. The Director or designee can agree, disagree or amend the HR Coordinator's decision to attempt to resolve the grievance. The Director or designee will send a determination letter to the employee, within ten (10) work days of receipt of the written appeal. The determination letter will notify the employee that he may appeal the decision to the Board of Health.

If the primary subject or actor of the grievance is the Director, then the employee may skip and bypass the foregoing Stage II: Appeal to Director of Health, and instead proceed to an Appeal to the Board of Health.

E. APPEAL TO THE BOARD OF HEALTH

The employee may, by his/her written request, appeal the decision of the Director to the Board. The written request should include the grounds for the appeal and substantiate the basis for the grievance. This appeal must be made within ten (10) work days of the written notification of the Director's or designee's decision. Board grievance appeals will be conducted in accordance with Section 6.6 Disciplinary and Grievance Appeal Procedures.

F. FINAL DECISIONS AND ORDERS

A grievance may be settled, in part or in whole, at any time during the grievance procedure. A final decision or order in a grievance review shall

be in writing and stated in the record. A final decision shall include findings of facts and reasons for the ultimate decision. Parties shall be notified in writing either personally or by mail of any decision or order and such written notice shall include a statement of a party's right to administrative or judicial review. A copy of the decision or order will be delivered or mailed forthwith to each party or to his representative of record.

G. ENFORCEMENT OF GRIEVANCE DECISION

After a decision has been rendered in settling a grievance, it is expected that the decision would be placed into action as soon as possible. If after a grievance decision is made, there is an unusual delay in placing the decision into effect, the employee or supervisor may seek the reason for the delay. If no satisfactory answer is obtained and/or the delay continues, the employee or supervisor should present the matter to the Director. If for any reason this action is unsuccessful, the matter may be directed to the attention of the Board.

H. MISCELLANEOUS GRIEVANCE PROVISIONS

1. Time Limitations

The time constraints referred to throughout the grievance section were included to assure a swift yet fair grievance process. The time limits must be adhered to unless extended by mutual agreement of both parties. In the event a grievance is not filed or is not appealed by the employee within the specified time limit, at any point in the grievance process, the matter will be considered as having been accepted by the employee or settled on the basis of the last disposition. In the event a grievance is not answered within the specified time limit, the employee may appeal the grievance to the next step in the process.

2. Hours/Compensation

Any employee officially involved in the handling of a grievance will be considered on official duty during his/her normal work hours. This will include the employee filing the grievance, his/her representative, any employee assigned to the investigation, and any employee called as a witness. All hearings, investigations, and settlements of grievances shall be processed during regular work hours whenever possible. All grievances shall be settled in accordance with the provisions of these procedures and there shall not be any undue interruptions, interference, or work stoppage that would curtail essential public services.

3. Witnesses

Metro employees who have direct, firsthand knowledge of the specific event or circumstances giving rise to a grievance may be required to give evidence at any step of the grievance procedure. The number of witnesses will be limited to those necessary for a fair presentation of the grievance.

4. Burden of Proof

The employee will bear the burden of proof in all grievance proceedings.

CHAPTER SEVEN

DEFINITIONS

The following definitions shall be applicable in these rules unless the context clearly requires otherwise:

ABSENCE WITHOUT LEAVE (AWOL) - An absence from duty which was not authorized or approved and for which either the request was not completed or such request was denied.

ACCIDENT REPORT - A required form that is completed by supervisors and signed by employees to report all on-the-job accidents, injuries, and illnesses.

ADDRESS - The street, number, city, county, state and zip code of an employee's or applicant's residence.

ADMINISTRATIVE LEAVE - Leave, with or without pay, which may be granted to employees by the Director or designee.

APPLICANT - An individual who has applied or is applying for employment or promotion with the Department.

APPOINTMENT - Official designation of an applicant to a particular position, whether entrance or promotional.

BENEFIT BOARD (Metropolitan Employee Benefit Board) - The Metropolitan agency that is created to administer, manage, and coordinate the employee benefit plans of the Metropolitan Government including the retirement plans.

BOARD OF HEALTH (Metropolitan Board of Health) - The Board authorized by the Metropolitan Charter to administer and control public health for the Metropolitan Government and to serve as a Civil Service Board for Metro Public Health Department employees; also known as the "Board."

CALENDAR DAY - Where the "calendar day" timeframe is referenced it is referring to counting each day on a calendar. For counting purposes, the Department does not count the first day the timeframe begins, but does count the last day.

CIVIL SERVICE EMPLOYEE - An employee that works on average at least twenty (20) hours per week and has completed a six (6) month probationary period and which is not in a position identified as being Non-Civil Service by the Civil Service Rules or the Charter of the Metropolitan Government.

CLASSIFICATION (or class) - A group of positions which are similar in duties and responsibilities, require the same education and experience, can be filled by substantially the same tests of ability or selection methods and are of a similar level of job worth; positions in the same classification are given the same title and assigned the same salary grade.

CLASSIFICATION SERIES - A group of classifications that are of different levels, but are all engaged in the same type of work.

COMPENSATORY TIME - Paid leave time credited to an employee in lieu of overtime pay when he/she works more hours than his/her officially established work week.

CONTINUOUS SERVICE - The employment time accumulated by an employee without a break in service or employment time adjusted to reflect the deduction of approved time not actively on the payroll.

DEMOTION - A regular or temporary change of classification and/or compensation of an employee due to disciplinary action and resulting in a reduction in salary in the same classification or a change from a position in one class to a position in another class having less responsibility and lower level of compensation.

DESIGNEE - The staff member assigned to complete certain administrative functions on behalf of the Director.

DIRECTOR OF HEALTH - The chief administrative officer of the Metro Public Health Department appointed by the Board of Health in accordance with provisions of the Metropolitan Charter; also known as the Chief Medical Director, Appointing Authority, or the "Director."

DISMISSAL - Termination of employment for cause.

DIVISION - A sub-unit of any Bureau of the Department. May be used synonymously with "program."

DOMESTIC PARTNER - A relationship defined in Metro Code § 3.14.010. This is intended to have the same meaning when used in these rules, for as long as that Metro Code provision is in effect.

EXAMINATION - Any selection tool, process, or combination thereof that is used to identify and/or measure the qualifications of a job applicant for a specific classification.

EXEMPT EMPLOYEE - Employees not subject to the overtime requirements of the Fair Labor Standards Act (FLSA) because they perform the duties of a classification determined not to be covered under the act.

FAMILY -

EXTENDED FAMILY - Aunts, uncles, nieces, nephews, sister-in-law, brother-in-law of the employee.

IMMEDIATE FAMILY - Spouse, domestic partner, parent, children, siblings, grandparents, grandchildren, mother-in-law, father-in-law,

daughter-in-law or son-in-law, legal guardians or dependents of the employee; step or half relations shall be given the same consideration as blood relatives of the same type.

INJURY LEAVE (OCCUPATIONAL DISABILITY) - The paid leave that is granted to an employee who is injured by an accident or develops an occupational illness in the course of his/her employment with the Department.

INTERVIEW - A personal, face-to-face conversation with an applicant in which a series of questions are asked to help determine an applicant's suitability for a position.

JOB DESCRIPTION - A written description of a classification describing the typical duties, responsibilities, and minimum qualifications required for that classification.

JOB OPEN NOTICE (POSTING) - Formal notice by the Human Resources Division that applications will be accepted during a designated period for a particular budgeted vacancy; this includes electronic and hard copy format.

LATERAL CLASSIFICATION - A classification having the same or equivalent salary grade as the classification currently held by an employee.

LEAVE OF ABSENCE - An excused absence of an employee for a period of time during which he/she retains the right to return to his/her position.

LEAVE WITHOUT PAY - Any time away from work for which an employee receives no compensation.

NON-EXEMPT EMPLOYEE - Employees subject to the overtime requirements of the Fair Labor Standards Act (FLSA) because they perform duties of a classification determined to be covered under the act.

NOTIFICATION DATE - Shall be the postmark or date that notice is rendered, either by mail or in person to the last known address.

OUTSIDE EMPLOYMENT - Any work paid in addition to the Metropolitan Government salary, including self-employment. Does not include investments, including investment real property.

POLICY - A statement that clarifies a rule or defines a practice.

PROBATIONARY PERIOD - The designated six (6) month period of time when a person is first appointed to a Civil Service position for the employee to demonstrate his/her fitness for the position.

PROGRAM - A sub-unit of any Bureau of the Department. May be used synonymously with "division."

PROMOTION - The appointment of an employee from a position in one classification to a position in another classification having a higher salary grade and additional responsibilities.

RECALL - The return to employment of a person from a layoff list.

RECLASSIFICATION - The reassignment of a position to a more appropriate classification in order to properly reflect the function of the position.

REEMPLOYMENT - The return of a former employee who is credited with his/her past service time with respect to his/her continuous service date.

REHIRE - The return of a former employee.

RESIDENT ALIEN - Any person who is not a United States citizen but possesses an alien registration card or other immigration papers authorizing permanent residency in this country and entitlement to work.

RESIGNATION - Separation of employment from the Department elected by the employee.

ROLLBACK - Reduction in pay, either within the pay range or to a classification with a lower pay range, in the context of a layoff action.

SENIORITY - The tenure of an employee acquired by continuous service with the Metro Government.

SICK LEAVE - An approved absence due to non-occupational illness or injury for which compensation is received.

SUPERVISOR - An employee who has authority and responsibility for planning, directing, scheduling and/or assigning the work of other employees and whose recommendations enter materially into final decisions concerning the hiring, evaluating, and disciplining of other employees.

TERMINATION - The separation of an employee from the Department payroll.

TOP-LEVEL MANAGEMENT - Employees in classifications designated as ineligible for overtime or compensatory time off; these include, but are not limited to, the Director, Deputy Director, Bureau Directors and Manager 3 positions.

TRANSFER - The change of an employee from one position to another position of equal classification, in another organizational unit of the Department, as decided by the Director.

VACANCY - A position funded in the Health Department's budget to which no person is currently appointed.

WORK DAY- Where the "workday" timeframe is referenced, it is referring to counting Department business days. For counting purposes, the Department does

not count the first day the timeframe begins, but does count the last day (only full work days count).

WORK TEST - A specified period of time during which an employee is required to demonstrate his/her suitability for a job.